

<b>DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)</b>		<b>Attorney Docket Number</b>	4002-2691	
		<b>First Name Inventor</b>	Kevin T. Foley et al.	
<b>COMPLETE IF KNOWN</b>				
<input type="checkbox"/> Declaration Submitted With Initial Filing		<input checked="" type="checkbox"/> Declaration Submitted after Initial Filing <b>OR</b> (surcharge 37 CFR 1.16 (e) required)	<b>Application Number</b>	09/928,949
		<b>Filing Date</b>	August 13, 2001	
		<b>Group Art Unit</b>		
		<b>Examiner Name</b>		

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am an original, first, and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**SURGICAL INSTRUMENTATION AND METHOD FOR TREATMENT OF THE SPINE**

*(Title of the Invention)*

the specification of which

is attached hereto      **OR**       was filed on (MM/DD/YYYY) 08/13/2001 as United States  
Application Number 09/928,949 and was amended on (MM/DD/YYYY)   (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim, as amended by any amendment specifically referred to above.

I acknowledge and hereby disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119 (a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Check Only If Priority Not Claimed	Certified Copy Attached? YES	NO
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.  
I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.
60/224,491	August 11, 2000	<input type="checkbox"/>

Type a plus sign (+) inside this box →

WENMM SB/01 pg 2 / 4002-2691/ #137784/#137799

## DECLARATION – Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365© of any PCT international application designating the Untied States of America, listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)

Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Customer Number  
OR  
 Registered practitioner(s) name/registration number listed below.

Place Customer Number Bar Code Label Here

Name	Registration Number	Name	Registration Number
Brad A. Schepers	45,431		

Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to :  Customer Number  
Bar Code Label  OR  Correspondence address below

Name	Brad A. Schepers				
Address	WOODARD EMHARDT NAUGHTON MORIARTY & McNETT				
Address	111 Monument Circle, Suite 3700				
City	Indianapolis	State	IN	ZIP	46204
Country	US	Telephone	317/ 634-3456		Fax 317/637-7561

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:  A petition has been filed for this unsigned inventor.  
Foley

Given Name (first and middle if any)  Family Name or Surname  
Kevin T. Foley

Inventor's Signature   Date

Residence: City Germantown State TN Country U.S.A. Citizenship U.S.A.

Post Office Address 2877 Keasler Circle West

Post Office Address

City Germantown State TN ZIP 38139 Country United States of America

Additional inventors are being name on the  supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

ADDITIONAL INVENTOR(S)  
Supplemental Sheet  
Page 1 of 1

4002-2691 / #137784 / #137799

Name of Joint Inventor, if any: Justis		A petition has been filed for this unsigned inventor.						
Given Name (first and middle [if any]) Jeff R.				Family Name or Surname Justis				
Inventor's Signature							Date <u>28 SEP 2001</u>	
Residence: City	Gulf Breeze	State	FL	Country	U.S.A.	Citizenship	U.S.A.	
Post Office Address	225 Northcliff Drive							
Post Office Address								
City	Gulf Breeze	State	Florida	ZIP	32563	Country	United States of America	
Name of Joint Inventor, if any:		A petition has been filed for this unsigned inventor.						
Given Name (first and middle [if any])				Family Name or Surname				
Inventor's Signature							Date	
Residence: City		State		Country		Citizenship		
Post Office Address								
Post Office Address								
City		State		ZIP		Country		
Name of Joint Inventor, if any:		A petition has been filed for this unsigned inventor.						
Given Name (first and middle [if any])				Family Name or Surname				
Inventor's Signature							Date	
Residence: City		State		Country		Citizenship		
Post Office Address								
Post Office Address								
City		State		ZIP		Country		

Type a Plus sign (+) inside this box →

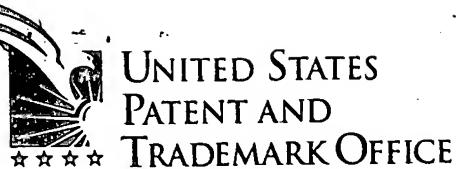
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## DECLARATION

## Registered Practitioner Information (Supplemental Sheet)

Attorney Name	Registration Number		
Harold R. Woodard	16,214		
C. David Emhardt	18,483		
Joseph A. Naughton, Jr.	19,814		
John V. Moriarty	26,207		
John C. McNett	25,533		
Thomas Q. Henry	28,309		
James M. Durlacher	28,840		
Charles R. Reeves	28,750		
Vincent O. Wagner	29,596		
Steve Zlatos	30,123		
Spiro Bereveskos	30,821		
William F. Bahret	31,087		
Clifford W. Browning	32,201		
R. Randall Frisk	32,221		
Daniel J. Lueders	32,581		
Kenneth A. Gandy	33,386		
Timothy N. Thomas	35,714		
Kurt N. Jones	37,996		
John H. Allie	39,088		
Holiday W. Banta	40,311		
Troy J. Cole	35,102		
L. Scott Paynter	39,797		
Charles J. Meyer	41,996		
Matthew R. Schantz	40,800		
Gregory B. Coy	40,967		
Lisa A. Hiday	40,036		
John V. Daniluck	40,581		
Christopher A. Brown	41,642		
C. John Brannon	44,557		
Jason J. Schwartz	43,910		
Arthur J. Usher IV	41,359		
Douglas A. Collier	43,556		
Brad A. Schepers	45,431		
Scott J. Stevens	29,446		
James B. Myers	42,021		
John M. Bradshaw	46,573		
Charles P. Schmal	45,082		
Edward E. Sowers	36,015		
David L. Ahlersmeyer	31,938		
David A. Warmbold	30,897		
Cary R. Reeves	35,334		
James J. Bindseil	42,326		



JANUARY 07, 2002

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Washington, DC 20231  
[www.uspto.gov](http://www.uspto.gov)

WOODARD, EMHARDT, NAUGHTON, ET AL.  
BRAD A. SCHEPERS  
BANK ONE CENTER/TOWER  
111 MONUMENT CIRCLE, SUITE 3700  
INDIANAPOLIS, IN 46204-5137



\*101889549A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/18/2001

REEL/FRAME: 012278/0119  
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNEE:  
FOLEY, KEVIN T.

DOC DATE: 09/25/2001

ASSIGNEE:  
JUSTIS, JEFF R.

DOC DATE: 09/28/2001

ASSIGNEE:  
SDGI HOLDINGS, INC.  
300 DELAWARE AVENUE, SUITE 508  
WILMINGTON, DELAWARE 19801

SERIAL NUMBER: 09928949  
PATENT NUMBER:

FILING DATE: 08/13/2001  
ISSUE DATE:

KIMBERLY WHITE, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

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WENMM-1595 (05/01)

Form PTO-1595  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)

RECC



U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

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Tab settings → → →

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

Kevin T. Foley  
Jeff R. Justis

*10-18-01*

Additional name(s) of conveying party(ies) attached?  Yes  No

## 3. Nature of conveyance:

- Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

Execution Date: September 25, 2001

## 2. Name and address of receiving party(ies)

Name: SDGI Holdings, Inc.

Internal Address: \_\_\_\_\_

Street Address: 300 Delaware Avenue, Suite 508

City: Wilmington State: Delaware Zip: 19801

Additional name(s) & address(es) attached?  Yes  No

## 4. Application number(s) or registration number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

## A. Patent Application No.(s)

09/928,949

## B. Patent No.(s)

*09-18*Additional number(s) attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Brad A. Schepers

Internal Address: Woodard, Emhardt, Naughton, Moriarty &amp; McNett

Street Address: Bank One Center/Tower, 111 Monument Circle, Suite 3700

City: Indianapolis State: Indiana Zip: 46204-5137

6. Total number of applications and patents involved **1**

7. Total fee (37 CFR 3.41) \$ 40.00

 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

23-3030

(Attach duplicate copy of this page if paying by deposit account)

## DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Brad A. Schepers  
Name of Person Signing

October 15, 2001

Date

5

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patent &amp; Trademarks, Box Assignments

Washington, D.C. 20231

10/26/2001 870411 0000079 09928949

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## ASSIGNMENT

WHEREAS, Kevin T. Foley of 2877 Keasler Circle West, Germantown, TN 38139 and Jeff R. Justis of 225 Northcliff Drive, Gulf Breeze, FL 32563, hereinafter referred to as Assignors, have made a new and useful invention for **SURGICAL INSTRUMENTATION AND METHOD FOR TREATMENT OF THE SPINE** which Assignors have made or will make application for Letters Patent of the United States; and

WHEREAS, SDGI Holdings, Inc., hereinafter referred to as Assignee, a corporation of the State of Delaware having a principal place of business at 300 Delaware Avenue, Suite 508, Wilmington, DE 19801, desires to acquire all of the entire right, title, and interest in, to and under said invention disclosed, described and/or claimed, or intended so to be in said application, and in, to and under said application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon.

NOW, THEREFORE, To All Whom It May Concern, be it known that for and in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application for United States Letters Patent executed by Assignors this 25th day of September, 2001 and any and all other applications thereon and arising therefrom, including any and all divisions and continuations thereof, and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors hereby authorize and request the firm of Woodard, Emhardt, Naughton, Moriarty & McNett of Bank One Center/Tower, 111 Monument Circle, Suite 3700, Indianapolis, IN 46204-5137 to insert here in parentheses (Serial No. 09/928,949, Filed August 13, 2001) the date and serial number of said application when officially known, and Assignors hereby authorize and request the Honorable Commissioner of Patents to issue said Letters Patent to Assignee, its assigns and legal representatives.

Assignors agree to sign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on the Invention in this and all foreign countries for the use of Assignee.

WITNESS Assignor's hand this 25<sup>th</sup> day of September, 2001.

  
Kevin T. Foley



## ASSIGNMENT

WHEREAS, Kevin T. Foley of 2877 Keasler Circle West, Germantown, TN 38139 and Jeff R. Justis of 225 Northcliff Drive, Gulf Breeze, FL 32563, hereinafter referred to as Assignors, have made a new and useful invention for **SURGICAL INSTRUMENTATION AND METHOD FOR TREATMENT OF THE SPINE** which Assignors have made or will make application for Letters Patent of the United States; and

WHEREAS, SDGI Holdings, Inc., hereinafter referred to as Assignee, a corporation of the State of Delaware having a principal place of business at 300 Delaware Avenue, Suite 508, Wilmington, DE 19801, desires to acquire all of the entire right, title, and interest in, to and under said invention disclosed, described and/or claimed, or intended so to be in said application, and in, to and under said application, and in, to and under any and all Letters Patent, United States and foreign, which may be obtained therefor and thereon.

NOW, THEREFORE, To All Whom It May Concern, be it known that for and in consideration of the sum of One Dollar (\$1.00) and other good, valuable and sufficient considerations to Assignors in hand paid, the receipt of which is hereby acknowledged, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto Assignee, all of the entire right, title and interest in, to and under said invention disclosed, described and claimed or intended so to be in said application, and in, to and under said application for United States Letters Patent executed by Assignors this 8 day of September, 2001 and any and all other applications thereon and arising therefrom, including any and all divisions and continuations thereof, and any and all patents to be issued and obtained therefor and thereon, United States and foreign, including all reissues and extensions thereof.

Assignors hereby authorize and request the firm of Woodard, Emhardt, Naughton, Moriarty & McNett of Bank One Center/Tower, 111 Monument Circle, Suite 3700, Indianapolis, IN 46204-5137 to insert here in parentheses (Serial No. 09/928,949, Filed August 13, 2001) the date and serial number of said application when officially known, and Assignors hereby authorize and request the Honorable Commissioner of Patents to issue said Letters Patent to Assignee, its assigns and legal representatives.

Assignors agree to sign and execute any and all other papers necessary or desirable for the procurement of Letters Patent on the Invention in this and all foreign countries for the use of Assignee.

WITNESS Assignor's hand this 28 day of September, 2001.

Jeff R Justis  
Jeff R. Justis